

TENTATIVE MAP PERMIT

FILE NO.	PT14-002
LOCATION OF PROPERTY	1199 Piedmont Road
ZONING DISTRICT	A(PD) Planned Development
GENERAL PLAN DESIGNATION	Residential Neighborhood
PROPOSED USE	Tentative Map to allow the subdivision and grading of one lot to three single-family lots, on a 0.4-gross acre site
ENVIRONMENTAL STATUS	Exempt pursuant to CEQA Guidelines Section 15315
OWNER/ADDRESS	Amy Quatrouache Apple Tree Investment LLC PO Box 32115 San Jose, CA 95132
APPLICANT/ADDRESS	Tuong Tran 526 Calero Avenue San Jose, CA 95123

FACTS

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

1. **Project Description.** This Tentative Map allows the subdivision of one lot into three lots for the purpose of developing single-family residences, on a 0.4-gross acre site.
2. **Site Description and Surrounding Uses.** The project site is located on the west side of Piedmont Road, approximately 220 feet north of Suncrest Avenue. The site is currently occupied by one single-family residence. The project site is in the A(PD) Planned Development Zoning District with Zoning File No. PDC07-021. The subject site is surrounded by single-family residences on all sides.
3. **General Plan.** The subject site has a designation of Residential Neighborhood on the Envision San José 2040 General Plan Land Use/Transportation Diagram. This designation is intended to preserve the existing character of the neighborhood and to strictly limit new development to infill projects which closely conforms to the prevailing existing neighborhood character and density. The prevailing density in the area is 8 DU/AC; the proposed development would result in a density of 3.2 DU/AC.
4. **Zoning.** The approved Planned Development Zoning (File No. PDC07-021) identifies a minimum lot size of 20,000 square feet.

FINDINGS

1. **Subdivision Map Act Findings.** In accordance with Section 66474 of the Government Code of the State of California, the Director of Planning of the City of San José, in consideration of the proposed subdivision shown on the Tentative Map with the imposed conditions, shall deny approval of a Tentative Map, if it makes any of the following findings:
 - a. That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.
 - b. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
 - c. That the site is not physically suitable for the type of development.
 - d. That the site is not physically suitable for the proposed density of development.
 - e. That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
 - f. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
 - g. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Based on review of the proposed subdivision, the Director of Planning of the City of San José does not make any such findings to deny the subject subdivision.

2. **Subdivision Ordinance Findings.** In accordance with San Jose Municipal Code (SJMC) section 19.12.130, the Director may approve the Tentative Map if the Director cannot make any of the findings for denial in Government Code section 66474 and the Director has reviewed and considered the information relating to compliance of the project with the California Environmental Quality Act and determines the environmental review to be adequate. Additionally, the Director may approve the project if the Director does not make any of the findings for denial in San Jose Municipal Code section 19.12.220.

SJMC section 19.12.130 incorporates the findings for denial in Section 66474 of the Government Code specified in Findings Section 1 herein.

Based on review of the proposed subdivision, the Director of Planning of the City of San José does not make any such findings to deny the subject subdivision and has determined the subdivision's environmental review under CEQA to be adequate.

3. **Environmental Review.** The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties., in that under the provisions of Section 15315 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project was found by the Director of Planning to be exempt from the environmental review requirements of Title 21 of the San Jose Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

4. **Infrastructure.** Section 19.12.220 authorizes disapproval of the project because of design, flood hazard, inundation, lack of adequate access, lack of adequate water supply or fire protection, insufficient sewerage or drainage facilities, geological hazards, when the only practical use which can be made of the property thereon is a use prohibited by any ordinance, statute, law or other valid regulations, or because of failure to comply with the requirements of the Subdivision Map Act or SJMC Title 19.

Based on review of the proposed subdivision, the Director of Planning of the City of San José does not make any such findings to deny the subject subdivision.

In accordance with the findings set forth above, a Tentative Map for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Tentative Map.** Per Section 19.12.230, should the applicant fail to file a timely and valid appeal of this Tentative Map within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Tentative Map by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 19 applicable to such Tentative Map.
2. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Tentative Map shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
3. **Public Use Easements.** Subdivider shall dedicate on the final map for public use easements for public utilities, streets, pedestrian ways, sanitary sewers, drainage, flood control channels, water systems and slope easements in and upon all areas within the subdivision shown on the Tentative Map for the subdivision to be devoted to such purposes.
4. **Conveyance of Easements.** Subdivider shall convey or cause to be conveyed to the City of San José, easements in and upon all areas as shown on the Tentative Map outside the boundaries of, but appurtenant to, the subdivision. Should a separate instrument be required for the conveyance of the easement(s), it shall be recorded prior to the recordation of the Parcel or Final Map. Such easements so conveyed shall be shown on the Parcel Map, together with reference to the Book and Page in the Official Recorder of Santa Clara County, where each instrument conveying such easements is recorded.

5. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract Map by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions.
- a. **Tract Map:** Place all necessary public and private easements on the map. The appropriate easements are required for any utilities crossing property lines.
 - b. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
 - c. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. The Minor Improvement Permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
 - d. **Transportation:** This project is exempt from the Level of Service (LOS) Policy, and no further LOS analysis is required because the project proposes 15 units of Single Family detached or less.
 - e. **Grading/Geology:**
 - i. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4' foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2010 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10 year storm event.
 - iii. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit.
 - f. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures and source control measures to minimize stormwater pollutant discharges.
 - g. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
 - h. **Flood: Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for zone D.

- i. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
- j. **Parks:** This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the formula contained within in the Subject Chapter and the Associated Fees and Credit Resolutions.
- k. **Undergrounding:**
 - i. The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to Piedmont Road prior to issuance of a Public Works Clearance. One hundred percent (100%) of the base fee in place at the time of payment will be due. Currently, the 2014 base fee is \$440 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's City Average Cost Index for the previous year. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued. (Based on 2014 rate, the fee is approximately \$44,000.)
 - ii. The Director of Public Works may, at her discretion, allow the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to Piedmont Road. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.
- l. **Easements:** Provide the following easements:
 - i. A 25-foot Street Easement on the west side of the east property line.
 - ii. A 10-foot Public Service Easement at the back of sidewalk.
 - iii. A Covenant of Easement to cover the private access road to all 3 lots.
 - iv. A Private Sanitary Sewer Easement for the proposed sewer lateral.
 - v. A Private Storm Drainage Easement along the private access road in favor of all 3 lots.
- m. **Street Improvements:**
 - i. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - ii. Remove existing sidewalk and construct 4.5' detached sidewalk and 7.5' parkstrip to match existing improvements along Piedmont Road frontage.
 - iii. Close unused driveway cut(s).
 - iv. Dedication and improvement of Piedmont Road may be required to the satisfaction of the Director of Public Works. Provide more information on the existing "roadway and public utilities easement" recorded on May 11, 1973.
 - v. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.

- n. **Sanitary:** At the PD stage, the project is required to submit plan and profile of the private sewer mains with lateral locations for final review and comment prior to construction.
 - o. **Storm:** Submit detailed connections of the storm lateral at PD stage.
 - p. **Electrical:**
 - i. Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
 - ii. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
 - q. **Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in park strip. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
6. **Improvement Contract.** In the event subdivider has not completed the improvements required for the proposed subdivision at the time the final map is presented for approval, subdivider shall enter into an improvement contract pursuant to Agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code, and provide the bonds and insurance mentioned therein.
7. **Distribution Facilities.** Subdivider shall, at no cost to the City, cause all new or replacement electricity distribution facilities (up to 40KV), telephone, community cable, and other distribution facilities located on the subject property to be placed underground.
8. **Multiple or Phased Maps.** In accordance with Government Code Section 66456.1, multiple Final Maps (or Parcel Maps) may be filed under this approval. Phased Parcel Maps will include lots that correspond to buildings to be constructed or that exist in a particular phase. The subdivider has the right to implement the order of the phasing and the number of parcels to be included in any given phase of the lot phasing. Lot numbering may differ on phased parcels as long as the building lot configurations remain substantially the same.
9. **Final Map.** No Final Map or Tract Map shall be approved by City Council unless and until the appeal period for the Tentative Map, File No. PT14-002 has expired and all appeals have been exhausted.
10. **Revocation, Suspension, Modification.** This Tentative Map may be revoked, suspended or modified by the Director of Planning, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 1, Section 20.100.350, Title 20 of the San José Municipal Code it finds:
- a. A violation of any conditions of the Tentative Map was not abated, corrected or rectified within the time specified on the notice of violation; or

- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

APPROVED and issued on this **20th day of April, 2016.**

Harry Freitas, Director
Planning, Building, and Code Enforcement

Deputy

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